

REMARKS

Initially Applicant notes that the remarks and amendments made in this response are consistent with those presented to the Examiner during the telephone call of March 10, 2008. Accordingly, entry of this amendment and reconsideration of the pending claims is respectfully requested.

By this paper, claims 1, 4 and 5 have been amended, claim 66 has been added, and claim 21 has been canceled, such that claims 1-20, 22-35, and 65-66 remain pending, of which claims 1 and 66 are the only independent claims at issue.

The Office Action, mailed January 10, 2008, considered and rejected claims 1-35 and 65. Claims 4 and 5 were objected to for purportedly containing material not taught in the Specification. Claims 1, 4, 5, 17 and 65 were rejected under 35 U.S.C. § 102(e) as being anticipated by Schneider et al. (U.S. Patent No. 6,919,891). Claims 2-3, 6-16 and 18-35 were rejected under 35 U.S.C. § 103(a) as being anticipated by Schneider as applied to claim 1 above, and further in view of Demsey et al. (U.S. Publ. No. 2004/0093604).¹

With regard to the objection to claims 4 and 5, Applicant notes that the claims have been amended to specifically recite drawing visual objects rather than drawing visuals. Support for drawing visual objects is found in at least paragraph [0008] of the Application, as published, where it is disclosed that a base object in the model includes container visual objects, retained visual objects, drawing visual objects and other visual objects. In view of this amendment, Applicant respectfully requests that the objection to claims 4 and 5 be withdrawn.

Applicant notes that independent claim 1 has been amended to contain elements similar to those present in dependent claim 21, which is now canceled. Support for the amendment is present in the claims as originally written and throughout the original application, and the amendment does not introduce any new subject matter. Furthermore, independent claim 66 has been added and recites many of the elements of independent claim 1, but with further elements also present in various original dependent claims. Like the amendments to the claims, support

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

for the new claim is found in the claims as originally written, as well as in the original application. Accordingly, inasmuch as the claims recite subject matter previously claimed, no new search should be necessitated by the amendments herein.

With regard to the rejection of the claims, Applicant notes that the each claim was rejected, at least in part, with reliance on the Schneider reference. Applicant further respectfully notes that Schneider was assigned to, or was under an obligation of assignment to, the Assignee of the present invention at the time the claimed invention was made.² Accordingly, inasmuch as Schneider can qualify as prior art only under 35 U.S.C. § 102(e)³ and Schneider and the present application were commonly assigned, Applicant respectfully submits that under 35 U.S.C. § 103(a), Schneider is not properly considered a prior art reference for a 35 U.S.C. § 103(a) rejection, and should thus be removed as a reference. Furthermore, in view of the amendments to independent claim 1, Applicant respectfully submits that the independent claim now contains elements acknowledged by the Office as not being taught by Schneider as recited in conjunction with the other claim elements.⁴ Inasmuch as a rejection of the amended independent claim would therefore require reliance on Schneider under 35 U.S.C. § 103(a), Applicant respectfully submits that the claims are allowable over the cited art.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise.

² Although it is not necessary for removal of a reference that the assignment and ownership be recorded with the Office, Applicant nevertheless notes that evidence of the common ownership of the present application and the Schneider reference can be found in the USPTO patent assignment database at reel/frame 014769/0945 and reel/frame 013061/0168, respectively.

³ The present application is a continuation of U.S. Patent No. 7,126,606, and thus has a priority date of March 27, 2003. Inasmuch as Schneider was published on July 17, 2003, it clearly does not qualify as prior art under 35 U.S.C. § 102(a) or 102(b).

⁴ In the rejection of dependent claim 21, the Office Action relies on Demsey as teaching invoking a visual manager to render a tree of at least one visual object to a rendering target.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 9th day of April, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick D. Nydegger". The signature is stylized with a large "R" and "N".

RICK D. NYDEGGER

Registration No. 28,651

COLBY C. NUTTALL

Registration No. 58,146

JOHN C. BACOCK

Registration No. 59,890

Attorneys for Applicant

Customer No. 47973

RDN:CCN:JCB:gd

MS 783-164 - DRAFT AMENDF AFTER NON-FINAL (OA DATED 10JAN08)